

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, SEPTEMBER 20, 2004  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:08 p.m. Mayor Murphy recessed the meeting at 3:00 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:14 p.m. with District 4 vacant. Mayor Murphy recessed the meeting at 4:35 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:44 p.m. with Council Members Frye and Inzunza not present and District 4 vacant. Mayor Murphy recessed the meeting at 5:43 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:50 p.m. with all Council Members present and District 4 vacant. Mayor Murphy adjourned the meeting at 6:39 p.m. into Closed Session immediately thereafter to discussing pending and potential litigation and Meet and Confer matters.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council District 4-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Maland/Lane (er)

FILE LOCATION:                      MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council District 4-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Lt. Colonel Doug O'Brien of the Salvation Army.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Zucchet.

FILE LOCATION: MINUTES

ITEM-30: Charles G. Abdelnour Day.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-272) ADOPTED AS RESOLUTION R-299648

Recognizing Charles G. Abdelnour for his thirty years of dedicated service to the City of San Diego and for his exemplary commitment to the citizens of San Diego;

Proclaiming September 20, 2004, to be "Charles G. Abdelnour Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:53 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Joyce Summer Day.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-233) ADOPTED AS RESOLUTION R-299651

Recognizing the accomplishments of Joyce Summer in improving the City of San Diego;

Proclaiming September 20, 2004, to be "Joyce Summer Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 3:00 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: AIDS Walk San Diego 15<sup>th</sup> Anniversary Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1393) ADOPTED AS RESOLUTION R-299647

Commending the staff, board members, volunteers, sponsors, and participants of AIDS Walk San Diego for their outstanding service, leadership, commitment, and generosity to those living with HIV/AIDS, and encouraging all San Diegans to participate in AIDS Walk San Diego by volunteering, walking, running, or making a donation;

Proclaiming September 26, 2004, to be "AIDS Walk San Diego 15<sup>th</sup> Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:31 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**CLOSED SESSION ITEMS:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *Clark v. City of San Diego*  
San Diego Superior Court No. GIC 834061**

**REFERRED TO CLOSED SESSION OF MONDAY, SEPTEMBER 20, 2004**

ACA assigned: Girard

This matter is an employment discrimination case. In closed session the City Council will be advised on the case status. **Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):**

Closed Session Comment 1:

Cathryn Chinn stated that she is the attorney for the plaintiff and wanted to inform the Council of what has happened to this point in this case. She stated that this is a case involving the disability of a City employee who had asked for and did not receive accommodation for her disability after her physician wrote to the City and requested the accommodation. Ms. Chinn further stated the law regarding disability has changed in the last three years and there has been no training or discussion of the changes in this law in the City Attorney's office. The events that occurred in this lawsuit occurred because the City Attorney's office had not educated its lawyers in this law.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:38 p.m. – 5:43 p.m.)

**Mayor Murphy closed the hearing.**

**CS-2 In the matter of City of San Diego Bond Offerings, Securities & Exchange Commission No. LA-2842, and United States Attorney's Office Investigation into certain City of San Diego Financial Disclosure Matters.**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 20, 2004**

ACA assigned: Girard

The Federal Securities & Exchange Commission and the United States Attorney's Office for the Southern District of California have been conducting investigations into certain financial disclosure matters of the City. In closed session, the City's outside counsel and the City Attorney will advise the City Council on the progress of the investigations and legal issues relating to the City's response to and cooperation with the investigating authorities.

**Closed Session Comment 1:**

Mel Shapiro commented that according to the resolution passed in March about closed session, the new rules include giving the Council an opportunity to discuss the basis for convening into closed session, asking questions and responding to questions from the public. On Closed Session Item 2, the Closed Session Agenda states, "conference with legal council significant exposure to litigation." Mr. Shapiro questioned what is the exposure? Who would be the plaintiff and who would be the defendant? Is it civil exposure or criminal exposure?

**Closed Session Comment 2:**

Carl DeMaio stated that in examining the legal liability that will be addressed in closed session, he would hope that Council would ask legal counsel why the report does not address the clear advance warning given to this Council on November 18<sup>th</sup> and in three letters from Diane Shipione, Diane's appearance before Council on November 18<sup>th</sup>, the legality of the quid pro quo between the Council saying, "we will increase city worker benefits if you will agree to intentionally under fund the pension system," personal financial gain by members of the retirement board, and Retirement Board indemnification for legal liability.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 3:48 p.m. – 3:56 p.m.; 5:43 p.m.)

**Mayor Murphy closed the hearing.**

\* ITEM-50:    Exception for Trolley Structure from Underground District Requirements.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance, which was introduced on 9/7/2004, Item 55. (Council voted 7-0. Councilmember Inzunza not present. Councilmember District 4-vacant):

(O-2005-32)                      ADOPTED AS ORDINANCE O-19318 (New Series)



Amending Chapter 6, Article 1, Division 5, of the San Diego Municipal Code by amending Section 61.0505, relating to exceptions from the Underground Utilities Procedural Ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-100: Two actions related to Awarding a Contract to Jaynes Corporation of California for the Construction of Serra Mesa/Kearny Mesa Branch Library.

(Serra Mesa Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-264) ADOPTED AS RESOLUTION R-299652

Approving the plans and specifications for the construction of the Serra Mesa/Kearny Mesa Branch Library (Project);

Authorizing the City Manager, after advertising for bid in accordance with law, to establish contract funding phases and to award the Project contract to the lowest responsible and reliable bidder, Jaynes Corporation of California, in an amount not to exceed \$5,031,906 for Phase 1 and \$1,350,000 for Phase 2, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the increase of \$3,956,000 for the Fiscal Year 2005 CIP Budget, CIP-35-089.0, Serra Mesa/Kearny Mesa Branch Library, of which \$3.8 million is from Kearny Mesa DIF 18, Fund 79530, and \$156,000 is from Serra Mesa Branch Library Fund, Fund 67029, contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to appropriate \$2,600,000 from Kearny Mesa DIF 18, Fund No. 79530, to CIP-35-089.0, Serra Mesa/Kearny Mesa Branch Library;

Authorizing the City Auditor and Comptroller to appropriate \$156,000 from Serra Mesa Branch Library Fund, Fund No. 67029, to CIP-35-089.0, Serra Mesa/Kearny Mesa Branch Library;

Authorizing the City Auditor and Comptroller to appropriate an additional \$1,200,000 from Kearny Mesa DIF 18, Fund No. 79530, into CIP-35-089.0 Serra Mesa/Kearny Mesa Branch Library, contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$8,311,274 from CIP-35-089.0, Serra Mesa/Kearny Mesa Branch Library, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Subitem-B: (R-2005-265) ADOPTED AS RESOLUTION R-299653

Stating for the record that the information contained in the final Mitigated Negative Declaration, LDR No. 99-0825, including any comments received during the public review process, has been previously reviewed and considered by the City of San Diego Hearing Officer and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the construction of the Serra Mesa/Kearny Mesa Branch Library (Project);

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project.

**CITY MANAGER SUPPORTING INFORMATION:**

The new Serra Mesa/Kearny Mesa Branch Library provides for a new 15,000 square foot Library on City-owned property located at 9005 Aero Drive in the Serra Mesa Community planning area to serve the Serra Mesa and Kearny Mesa communities. The existing library is small and inadequate to provide the necessary library services for these growing areas. The new library will provide a computer lab, meeting room facilities, adequate parking, children's area and quiet study areas.

On July 13, 2004, five bids were received and opened for the construction of the Serra Mesa/Kearny Mesa Branch Library. The lowest responsible bidder is Jaynes Corporation of California with a bid amount of \$6,381,906. This action requires authorization of the necessary funding and award of contract to Jaynes for construction of the new Serra Mesa/Kearny Mesa Branch Library.

Additionally, on July 19, 2004, the First Five Commission of San Diego awarded the project up to \$1,000,000. This funding will require that prevailing wages are paid for construction. Staff will return to City Council this fall to execute the agreement with the Commission and seek the necessary authorizations for the expenditure of funds and necessary contract changes with our contractor.

**FISCAL IMPACT:**

The total cost of this project is \$9,946,500 of which \$635,226 has been previously authorized. \$7,746,500 is available for Phase I construction. \$2,200,000 will be transferred into the project for Phase II when funds become available, \$1,200,000 from Kearny Mesa DIF 18 Fund No. 79530 and \$1,000,000 from the First Five Commission.

Mendes/Boekamp/AO

Aud. Cert. 2500246.

FILE LOCATION: CONT – Jaynes Corporation

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-101: Agreement with Costa Verde Developers, LLC, for the Installation of a Traffic Signal and Street Lighting System at Edmonton Avenue and Governor Drive.

(University City Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-221) ADOPTED AS RESOLUTION R-299654

Authorizing the City Manager to execute an agreement with Costa Verde Developers, LLC (Developer), for the installation of a traffic signal and street lighting system at Edmonton Avenue and Governor Drive (Project), under the terms and conditions set forth in the Agreement;

Authorizing an increase of \$110,000 to the Fiscal Year 2005 CIP budget in CIP-62-290.0, Modernize/Modify Traffic Signals – DIF Funded, for the purpose of construction engineering for the Project;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend \$110,000 in cash and in-kind donations, from Fund 63022, deposit and services by Developer, to cover the City's cost of field inspections and construction management services, as well as construction costs for the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

This project will install a new traffic signal at the intersection of Governor Drive and Edmonton Avenue. The estimated cost of the entire project is \$130,000.

The plans and specifications for this project were prepared by city staff and are ready to forward to Costa Verde Developers, LLC who have agreed to construct the traffic signal at no cost to the City as described in the agreement. The agreement requires Costa Verde Developers, LLC to deposit \$15,000 to cover the City's cost of field inspections and construction management services. Any remaining funds will be returned to Costa Verde Developers, LLC at the completion of the project.

**FISCAL IMPACT:**

The total estimated cost of the project is \$130,000. Design cost of the project was approximately \$20,000 and was funded under CIP-62-290.0, Modernize/Modify Traffic Signals - DIF Funded, Fund 79528. Construction is estimated to cost \$95,000 and construction engineering is estimated to cost \$15,000. Construction and construction engineering will be funded by Costa Verde Developers, LLC at no cost to the City.

Mendes/Boekamp

Aud. Cert. 2500176.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-102: Grant Application to the State of California for Rancho Bernardo Community Park Dog Off Leash Area.

(Rancho Bernardo Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-250)                      ADOPTED AS RESOLUTION R-299655

Authorizing the City Manager to apply to State of California (SOC) for \$80,000 in Per Capita funds from the Grant Program for the development of approximately three acres of land to be added to the Rancho Bernardo Community Park, consisting of a pedestrian plaza that will feature benches, a drinking fountain, landscaping, twenty-right new parking spaces, and access to three new fenced dog areas which will feature turf, shade trees, benches, and drinking fountains for the dogs, plus a new accessible concrete walkway linking the pedestrian plaza/dog areas to the existing parking lot and a new drain system to conform to the Storm Water Pollution Prevention Act (Project);

Authorizing the City Manager to take all necessary actions to secure the grant for the Project, and to negotiate and execute all agreements necessary to comply with the SOC's grant requirements;

Authorizing the City Manager to accept the Grant if it is secured;

Authorizing the City Auditor and Comptroller to establish special interest-bearing fund for the Grant;

Authorizing an increase of \$80,000 to the Fiscal Year 2005 Capital Improvement Program Budget, CIP-29-598.0, Rancho Bernardo Community Park Dog Off Leash Area, 2000 California Park Bond (Prop 12), upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$80,000 from CIP-29-598.0, Rancho Bernardo Community Park Dog Off Leash Area, 2000 California Park Bond (Prop 12), for the design and construction of the Rancho Bernardo Community Park Dog Off Leash Area, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to transfer \$50,000 from Rancho Bernardo Special Park Fees Fund, Fund No. 39086, to CIP-29-598.0, Rancho Bernardo Community Park Dog Off Leash Area;

Authorizing an increase of \$50,000 to the Fiscal Year 2005 Capital Improvement Program Budget, CIP-29-598.0. Rancho Bernardo Community Park Dog Off Leash Area, Fund No. 39086, Rancho Bernardo Special Park Fees;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$50,000 from CIP-29-598.0, Rancho Bernardo Community Park Dog Off Leash Area, Fund No. 39086, Rancho Bernardo Special Park Fees, for the design and construction of the Rancho Bernardo Community Park Dog Off Leash Area;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

Rancho Bernardo Community Park Dog Off-Leash is a Capital Improvement Project for the Rancho Bernardo community. This project includes the purchase and development of approximately three acres of land that will be added to the existing acreage of the Rancho Bernardo Community Park. Within the new three acres will be a pedestrian plaza that will feature benches, a drinking fountain, landscaping, 28 new parking spaces and access to three new fenced dog areas. The existing disabled parking spaces and ramps will be upgraded to meet current ADA guidelines. In addition, a new drain system will be installed to conform to the Storm Water Pollution Prevention Act. The dog areas will feature turf, shade trees, benches and drinking fountains for the dogs. A new accessible concrete walkway will link the pedestrian plaza/dog areas to the existing parking lot.

A portion of the funds for design have been previously authorized. The City manager is therefore requesting the final funds be authorized to construct the project.

**FISCAL IMPACT:**

The total project cost is \$890,000 of which \$760,000 has been previously authorized. The remaining \$130,000 is available, \$80,000 in grant funds, appropriated by the State of California as part of the Council District 5 allocation of the City of San Diego's population based allocation from the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 Program (Prop 12) and \$50,000 from Rancho Bernardo Special Park Fees to CIP-29-598.0, Fund #39086.

Herring/Oppenheim/AP

Aud. Cert. 2500247.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-103: Appointment and Reappointments to the Commission for Arts and Culture.

(See memorandum from Mayor Murphy dated 9/7/2004.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-249 Cor. Copy) ADOPTED AS RESOLUTION R-299656

Council confirmation of the following appointment and reappointments by the Mayor, to serve as members of the Commission for Arts and Culture, for terms ending as indicated:



<u>NAME</u>	<u>TERM ENDING</u>
Bennett Peji (replacing Barbara Finn-Pressley, who resigned)	August 31, 2006
Dorothy Annette (reappointment)	August 31, 2006
Steven L. Miller (reappointment)	August 31, 2006
Randy S. Robbins (reappointment)	August 31, 2006
Calvin Woo (reappointment)	August 31, 2006

Declaring that Vivian Reznik, who has served on the Commission since 1997 and currently is the chair, will continue to serve as chair until a successor is appointed and confirmed.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-104: Harold Cohen Day.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-213) ADOPTED AS RESOLUTION R-299657

Commending and thanking Harold Cohen for his dedication, invaluable contributions, and service to the art community and the City of San Diego;

Proclaiming August 14, 2004, to be "Harold Cohen Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-105: Mental Health Association in San Diego County and A New Path's "It Takes a Community... Gala" Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-266) ADOPTED AS RESOLUTION R-299658

Commending the Mental Health Association in San Diego County and A New Path for their outstanding service, leadership, and commitment in the fight to improve the lives of individuals dealing with mental illness and the disease of addiction;

Proclaiming September 11, 2004, to be "Mental Health Association in San Diego County and A New Path's 'It Takes a Community... Gala' Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-106: Richard McClees Day.

**DEPUTY MAYOR ATKINS' AND COUNCILMEMBER FRYE'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2005-269)                      ADOPTED AS RESOLUTION R-299659

Congratulating Richard McClees on his receipt of the 2004 John S. Lyons Labor Leader of the Year Award, and recognizing his outstanding contributions to the enhancement of the quality of life of working men and women in San Diego;

Proclaiming September 11, 2004, to be "Richard McClees Day" in the City of San Diego.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-107: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1248)            ADOPTED AS RESOLUTION R-299660

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION:            GEN'L - State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION:            (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-108: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-45)            ADOPTED AS RESOLUTION R-299661

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION:            GEN'L - State of Emergency due to economic circumstances in the San Diego-Tijuana border region

COUNCIL ACTION:            (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-109: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-103)                      ADOPTED AS RESOLUTION R-299662

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

**FILE LOCATION:**                      GEN'L - Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

**COUNCIL ACTION:**                      (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

- \* ITEM-110: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1235)          ADOPTED AS RESOLUTION R-299663

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION:          GEN'L - State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION:          (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Grant Application to the State of California Department of Transportation (DOT) for Euclid Avenue Walkable Communities Environmental Justice Grant Project.

(Mid-City and City Heights Community Areas. Districts-3 and 7.)

(Continued from the meeting of September 7, 2004, Item 106, at the request of Councilmember Atkins, for additional time to meet with staff and committees to explain the grant.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-179 Cor. Copy 2)          ADOPTED AS AMENDED AS RESOLUTION  
R-299664

Authorizing the City Manager to apply to the State of California Department of Transportation (DOT) for a Grant for funding of the Euclid Avenue Walkable Communities Environmental Justice Grant Project;

Authorizing the City Manager to take all necessary actions to secure and accept Grant funds from DOT for development of the Project, and is authorized to submit all documents and to negotiate and execute all agreements necessary, including any amendments, to comply with DOT's Grant requirements, or to carry out and administer all obligation, responsibilities, and duties under the Grant;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvements Program budget to reflect an increase of \$162,000 from DOT funds, upon receipt of a fully executed Grant agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$180,000 from CIP-52-699.1, Euclid Avenue Improvements, of which \$162,000 is from State DOT funds under the Grant, upon receipt of a fully executed Grant agreement, and \$18,000 is from Fund No. 30300 for the Project and related expenses;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$18,000 from Fund No. 30300, CIP-52-715.0, New Walkways, to CIP-52.699.1, Euclid Avenue Improvements;

Authorizing the City Auditor and Comptroller to appropriate and expend Grant funds in an amount not to exceed \$162,000 for the Project, if the Grant is secured;

Authorizing and directing the City Auditor and Comptroller to establish a special interest-bearing fund for the Grant, if secured.

**CITY MANAGER SUPPORTING INFORMATION:**

In November 2001, the City of San Diego submitted an application for an Environmental Justice grant to the California Department of Transportation for the creation of a comprehensive pedestrian and transportation-oriented master plan along Euclid Avenue from Home Avenue to El Cajon Boulevard.

Euclid Avenue is one of only two north/south streets through the community of City Heights. As the only continuous artery through an urban canyon system, Euclid Avenue is a heavily utilized transportation corridor that must serve the needs of pedestrian, bicycle and vehicle traffic. Presently pedestrians are not well served by the infrastructure in the area. Due in part to inadequate transportation/land use planning, this area has experienced serious environmental justice problems. The absence of sidewalks and limited opportunities for pedestrian crossing, coupled with the speed and volume of traffic, create difficult conditions for pedestrians, drivers, and bicyclists. Grant funds were requested to hire a consultant to conduct community-based transportation planning studies as part of a larger community visioning process that would help identify ways to remedy environmental justice issues in the area.

In May 2004, the State DOT awarded \$162,000 in grant funding toward the \$180,000 Euclid Avenue Walkable Communities Grant request. The 10% match, or \$18,000, would constitute the balance of the total and would be paid with TransNet funds allocated to the project. Council authorization is requested to authorize the original submittal of the grant as well as to authorize the City Manager to accept, expend and administer grant funds.

**FISCAL IMPACT:**

The City would receive \$162,000 in environmental justice funds. The required 10% match, or \$18,000, would be available from Fund No. 30300.

Ewell/Goldberg/LBE

Aud. Cert. 2500132.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:45 p.m. – 5:38 p.m.)

MOTION BY ATKINS TO ADOPT WITH THE FOLLOWING AMENDMENTS:

1. AUTHORIZING THE ADDITION OF CIP 52-743.0, EUCLID AVENUE ENVIRONMENTAL JUSTICE GRANT ~~CORRIDOR IMPROVEMENTS~~, TO THE FISCAL YEAR 2005 CAPITAL IMPROVEMENTS PROGRAM BUDGET, AND;
2. ~~AUTHORIZING THE REVISION OF THE FISCAL YEAR 2005 CAPITAL IMPROVEMENTS PROGRAM BUDGET, CIP 52-699.0, FROM EUCLID AVENUE IMPROVEMENTS TO EUCLID AND HOME INTERSECTION IMPROVEMENTS.~~



AMEND THE RESOLUTIONS TO REFLECT THE FOLLOWING:

1. AUTHORIZING THE CITY AUDITOR AND COMPTROLLER TO TRANSFER AN AMOUNT NOT TO EXCEED \$18,000 FROM FUND NO. 30300, CIP-52-715.0, NEW WALKWAYS, TO ~~CIP-52-699.1, EUCLID AVENUE IMPROVEMENTS~~ CIP 52-743.0, EUCLID AVENUE ENVIRONMENTAL JUSTICE GRANT CORRIDOR IMPROVEMENTS, AND;
2. AUTHORIZING THE CITY AUDITOR AND COMPTROLLER TO APPROPRIATE AND EXPEND AN AMOUNT NOT TO EXCEED \$180,000 FROM ~~CIP-52-699.1, EUCLID AVENUE IMPROVEMENTS~~, CIP 52-743.0, EUCLID AVENUE ENVIRONMENTAL JUSTICE GRANT CORRIDOR IMPROVEMENTS, OF WHICH \$162,000 IS FROM STATE DOT FUNDS UNDER THE GRANT, CONTINGENT UPON RECEIPT OF A FULLY EXECUTED GRANT AGREEMENT, **PROVIDED THAT THE CITY AUDITOR FIRST FURNISHES ONE OR MORE CERTIFICATES CERTIFYING THAT FUNDS NECESSARY FOR THE EXPENDITURE ARE, OR WILL BE, ON DEPOSIT WITH THE CITY TREASURER**, AND \$18,000 IS FROM FUND NO. 30300 FOR THE PROJECT AND RELATED EXPENSES AND;
3. AUTHORIZING THE CITY AUDITOR AND COMPTROLLER TO INCREASE THE FISCAL YEAR 2005 CAPITAL IMPROVEMENTS PROGRAM BUDGET TO REFLECT AN INCREASE OF \$162,000 FROM DOT FUNDS, **IN CIP 52-743.0, CONTINGENT UPON RECEIPT OF A FULLY EXECUTED GRANT AGREEMENT AND** ;
4. AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS TO SECURE AND ACCEPT GRANT FUNDS FROM DOT FOR DEVELOPMENT OF THE PROJECT, AND IS AUTHORIZED TO SUBMIT ALL DOCUMENTS AND TO NEGOTIATE AND EXECUTE ALL AGREEMENTS NECESSARY, INCLUDING ANY AMENDMENTS, TO COMPLY WITH DOT'S GRANT REQUIREMENTS, OR TO CARRY OUT AND ADMINISTER ALL OBLIGATION, RESPONSIBILITIES, AND DUTIES UNDER THE GRANT INCLUDING CONSULTATION WITH THE EUCLID RAP COMMITTEE AND THE CITY HEIGHTS AREA PLANNING COMMITTEE.

5. RENAMING THE RESOLUTION TO SAY “A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING GRANT APPLICATION FOR FUNDING OF A PEDESTRIAN ORIENTED AND TRAFFIC CALMING MASTER PLAN ALONG EUCLID AVENUE.”
6. CHANGING THE BOUNDARIES ALONG EUCLID AVENUE TO SAY FROM ALTADENA AVENUE TO UNIVERSITY AVENUE.

THE FOLLOWING SHALL REMAIN THE SAME:

AUTHORIZING THE CITY MANAGER TO APPLY TO THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (DOT) FOR A GRANT FOR FUNDING OF THE EUCLID AVENUE WALKABLE COMMUNITIES ENVIRONMENTAL JUSTICE GRANT PROJECT;

AUTHORIZING THE CITY AUDITOR AND COMPTROLLER TO APPROPRIATE AND EXPEND GRANT FUNDS IN AN AMOUNT NOT TO EXCEED \$162,000 FOR THE PROJECT, IF THE GRANT IS SECURED;

AUTHORIZING AND DIRECTING THE CITY AUDITOR AND COMPTROLLER TO ESTABLISH A SPECIAL INTEREST-BEARING FUND FOR THE GRANT, IF SECURED.

Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: **Notice** of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a “Notice of Completion and Acceptance of Subdivision Improvement Agreement” indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Remington Hills Unit No. 1  
Remington Hills Unit No. 2

Otay Mesa  
Otay Mesa

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEM-S400: K2 Inc. Day.

**MAYOR MURPHY'S AND COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-293)                      ADOPTED AS RESOLUTION R-299650

Recognizing K2 Inc.'s selfless donation of sporting goods to the youth of San Diego;

Proclaiming September 20, 2004, to be "K2 Inc. Day" in the City of San Diego.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 2:16 p.m. – 2:21 p.m.)

MOTION BY PETERS TO ADOPT. Second by Mayor. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-S401: Code Enforcement Week.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-292) ADOPTED AS RESOLUTION R-299649

Recognizing the accomplishments and proactive involvement of all Code Enforcement Personnel, volunteers, and community groups in our City;

Proclaiming September 20-24, 2004, to be "Code Enforcement Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:16 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: In the Matter of the Vinson & Elkins Report on Investigation of Disclosure and Disclosure Practices.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-301) ADOPTED AS AMENDED AS RESOLUTION R-299665

Receiving the "Report on Investigation - The City of San Diego California's Disclosures of Obligation to Fund the San Diego City Employee's Retirement System and Related Disclosure Practices 1996-2004 with Recommended Procedures and Changes to the Municipal Code," prepared by Paul S. Maco and Richard C. Sauer of Vinson & Elkins, LLP (the "Report");

Directing the City Attorney to return to the City Council on September 27, 2004, with the necessary and appropriate actions to implement the recommendations set forth in the Report;

Directing the City Manager, Acting City Auditor and Comptroller, City Treasurer, and City Attorney, to study the Report and return to the City Council on September 27, 2004, with any necessary or appropriate comment on the recommendations set forth therein.

**SUPPORTING INFORMATION:**

In early February of this year, following the discovery of errors in the City's Fiscal Year 2002 Consolidated Annual Financial Report, and prior to being informed of an investigation by the Securities and Exchange Commission and U.S. Attorney's Office, the City sought expert legal advice to address the sufficiency of the City's financial disclosure. The City retained the services of Mr. Paul Maco, Esq., and the law firm of Vinson & Elkins to investigate and report on the City's disclosure and disclosure practices from 1996 through the present. Mr. Maco is the former head of the Office of Municipal Securities at the SEC. The report was to include appropriate recommendations to address disclosure issues that may have come to light during the course of the investigation.

Vinson & Elkins has finalized its report, and is prepared to present it to the City Council. The report and presentation include recommendations for City Council consideration.

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FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:14 p.m. – 4:35 p.m.;  
5:51 p.m. – 6:33 p.m.)

MOTION BY PETERS TO ADOPT AS AMENDED WITH DIRECTIONS TO THE CITY MANAGER AND CITY ATTORNEY TO COME BACK TO COUNCIL ON TUESDAY, SEPTEMBER 28, 2004, WITH THEIR RECOMMENDATIONS AND EVALUATIONS AND A WRITTEN ANALYSIS. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 6:39 p.m. in honor of the memory of:

Joanne Brynjestad as requested by Mayor Murphy.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 6:39 p.m.)